

MOTION BY SUPERVISOR HILDA L. SOLIS

AND CHAIR MARK RIDLEY-THOMAS

June 26, 2017

**Wells Fargo Consumer Banking Fraud Settlement Spending Plan**

In 2016, the Los Angeles City Attorney's Office (City Attorney) and Wells Fargo Bank (Wells Fargo) settled a lawsuit alleging that Wells Fargo had engaged in unlawful, unfair, and fraudulent sales, resulting in harm to California consumers. Under the settlement, Wells Fargo paid \$50 million in civil penalties, which by law was split between the City Attorney and the County of Los Angeles (County). The County's one half portion of the civil penalties (\$25 million) can be allocated by the County Board of Supervisors (Board) to enforce consumer protection laws, subject to certain restrictions.

On November 22, 2016, the Board of Supervisors directed the Chief Executive Officer (CEO) to consult with the District Attorney, County Counsel, the Department of Business and Consumer Affairs (DCBA), and other necessary County departments to prepare a multi-year proposal for consumer protection, enforcement, and education activities aligned with the Board's adopted strategic priorities for which the \$25 million in Wells Fargo settlement funds could be deployed, including investigating the feasibility of using a portion of the Wells Fargo civil penalties to create an Affirmative Litigation Consumer Protection Unit within County Counsel to identify and bring legal action against those whose violation of consumer protection laws harms County residents. On March 10, 2017, the CEO submitted a report identifying County consumer protection, enforcement and education programs for which the Wells Fargo civil penalties could be used. On May 5, 2017, the CEO submitted updated recommendations.

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Barger	_____
Ridley-Thomas	_____

The CEO's updated recommendations strike a prudent balance between the aggressive enforcement of consumer protection laws and preserving flexibility to identify and address new threats to consumers.

One issue merits further comment. While consumer protection is a key component of any cannabis regulatory structure, funding decisions regarding that regulatory structure should be based on a comprehensive strategy that includes projections of regulatory costs and offsetting revenues recovered from fees, fines, and taxation. The County is currently in the process of developing a regulatory proposal that includes comprehensive cost and revenue projections, and is expected to complete this proposal by year's end. It is appropriate that some of the Wells Fargo funding be used to fund the "start-up" costs required to establish the regulatory structure by January 2018 because of its relevance to consumer protection, but the ongoing regulatory costs should be funded by other available means. Furthermore, it is imperative that the Wells Fargo settlement funds be utilized in ways that serve the intended purpose—to protect consumers from unethical and harmful business practices.

**WE, THEREFORE, MOVE THAT THE BOARD OF SUPERVISORS:**

1. Approve the following spending plan for the Wells Fargo settlement funds:
  - a. To County Counsel
    - i. \$3,272,000, over 3 years with \$1,444,000 in 2017-18, to support DCBA's Consumer Protection Program, consumer protection hotline improvements, and consumer protection operations enhancements;
    - ii. \$5,950,000, over 2 years with \$2,975,000 in 2017-18, to support County Counsel's Affirmative Litigation Consumer Protection Unit;
    - iii. \$900,000, over 2 years with \$600,000 in 2017-18, to support the Treasurer and Tax Collector's business license consumer protection enhancements;
    - iv. \$1,861,000 to support the Department of Public Health's Consumer Protection Cannabis Inspection Program;
    - v. \$523,000, to support the CEO's Cannabis Consumer Protection Contingency Fund and Licensed Cannabis Emblem Program.
  - b. To the District Attorney
    - i. \$1,366,000, over 3 years with \$335,000 in 2017-18, to support the Unauthorized Practice of Law (UPL) or "Notario fraud" unit;

- ii. \$150,000 to support the Cyber Crime Initiatives related to identity theft and email scams;
  - c. Set aside \$5,000,000 from the Other Financing Uses appropriation in the Consumer Protection Settlement Fund as obligated fund balance in the Fund, with \$1,000,000 to be allocated to each Supervisorial District exclusively for new or existing district-specific consumer protection programs or other activities directly related to the protection and/or education of consumers in such Supervisorial District.
  - d. Set aside the remainder (\$5,978,000) as an Appropriation for Contingency, pending future Board action.
- 2. Direct the Auditor-Controller and CEO to allocate the Wells Fargo settlement funding as described above as part of the Fiscal Year 2017-18 Adopted Budget.
  - 3. Direct County Counsel to establish an Affirmative Litigation Consumer Protection Unit (Affirmative Litigation Unit) dedicated to advancing the following mission: protecting consumers by identifying areas in need of regulation and oversight, proactively addressing negative impacts on consumers, and enforcing consumer protection laws from small violations to innovative and high-impact legal actions on behalf of the People of the County of Los Angeles. The Affirmative Litigation Unit should be staffed primarily by new positions with, to the greatest extent possible, expertise in regulating and enforcing County business activities, which includes issuing fines, civil penalties, and bringing high-impact civil actions.